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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,620	11/17/2003	John James Stanko	03-0011	6582

7590 05/11/2006
Daniel W. Ernsberger
Suite 300
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EXAMINER

WELCH, GARY L

ART UNIT	PAPER NUMBER
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3765

DATE MAILED: 05/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/634,620	Applicant(s) STANKO, JOHN JAMES	
	Examiner Gary L. Welch	Art Unit 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's amendment, filed 27 October 2005, has been reviewed and considered. Applicant traverses examiner's prior art rejection to claim 1 as being anticipated by Gasser (U.S. 4,972,564) and the rejections to claims 2-6 as being obvious over Gasser (U.S. 4,972,564). In view of applicant's arguments, the prior art rejections raised in the first Office Action are withdrawn. However, an updated search and further review of the prior art of record has prompted the presentation of the following rejections. This Office Action is considered a second non-final rejection.

Claim Rejections - 35 USC § 102

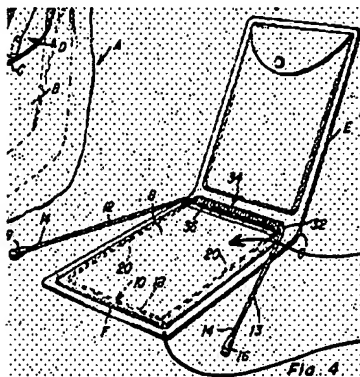
2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Bortle (U.S. 3,462,801).

Bortle discloses a pocket protector consisting of an outer pocket fabric and an inner pocket fabric secured along their edges to define a pocket 8 (see figure). A reinforcing material 6 is affixed to and runs down both the outer fabric and the inner fabric since the reinforcing material 6 is sewn into the pocket 8.



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With regard to claim 2, the reinforcing material is stainless steel wire (Col. 2, lines 45-51).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bortle (U.S. 3,462,801).

Bortle discloses the invention substantially as claimed above.

However, Bortle does not disclose that the stainless steel wire is affixed to the outer and inner pocket with embroidery stitching or iron on patches.

A review of applicant's specification does not reveal any criticality for using embroidery stitching or iron on patches for affixing the stainless steel wire to the outer and inner pockets. It is well founded that various types of fastening mechanisms are functionally equivalent and may be used interchangeably

depending upon the desired aesthetic effect. Therefore, it would have been obvious to one of ordinary skill at the time the invention was made to substitute embroidery stitching or iron patches in place of the stitching of Bortle since these fastening mechanisms are functionally equivalent and may be used interchangeably. Additionally, some people may consider the stitching of Bortle decorative and therefore an embroidered stitching.

With regard to claim 5 and 6, Bortle discloses a single strand of stainless steel wire. A review of applicant's specification does not reveal any criticality for the reinforcing material to be fabricated from multiple strands of stainless steel wire. In fact, the specification states that the reinforcing material can be fabricated from a single strand or from multiple strands. It is well founded that metallic wires are either solid or formed from multiple strands and therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute multiple strands of stainless steel wire for the reinforcing material in lieu of a single solid strand of stainless steel since they are functionally equivalent.

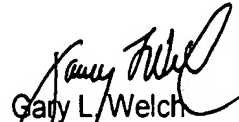
Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior listed on the attached form, PTO-892, shows various anti-pick pocket protectors.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary L. Welch whose telephone number is (571) 272-4996. The examiner can normally be reached on Mon-Fri 5:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on (571) 272-4983. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Gary L. Welch
Primary Examiner
Art Unit 3765

glw